



County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 2, 2011

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains two pursuits of County position on legislation related to contract renewal and land use, and the status of two County-advocacy bills related to reusable bags and the notification of intent of a city or library district to withdraw from a county library system.

Pursuit of County Position on Legislation

AB 834 (Hernandez), which as amended on April 14, 2011, would: 1) require the legislative body of a city, county, or district to review any contract with a total of \$250,000 or more with a private party that contains an automatic renewal clause on or before the annual date by which the contract may be rescinded; and 2) require the legislative body of a city, county, or district to make findings on the record, prior to the renewal of the contract, including, but not limited to, whether the contract contains updated information and whether the contract fits the needs of the legislative body.

Existing law authorizes the legislative body of a city, county, or district to enter into contracts for various services, and also to include within the contract a time within which the entire or any specified portion of the work being considered is to be completed.

According to County Counsel, AB 834 would require the departments to provide justification as to why they wish to renew the contract. However, no specific reports

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would need to be produced; but rather a determination that the department requires the continued services of the contractor and what the level of compensation for the contracted services would be and whether that remains the same or increases. The contract renewal would need to be placed on the Board agenda and the Board may decide to hold the item and discuss it further. This places an additional administrative burden on the County to re-approve automatic renewal contracts of \$250,000 or more, even if the Board previously approved such a contract.

The Department of Public Works (DPW) indicates that the measure could increase costs and reduce the department's operational effectiveness. The department is concerned about the lack of clear definitions of the terms "evergreen" and "automatic renewal" contracts. Without more clarity, DPW states that certain contracts with finite terms for automatic renewal or optional years could be subject to the new requirements.

The Department of Public Works, County Counsel, and this office recommend that the County oppose AB 834, unless amended to apply only to contracts with said "evergreen" or "automatic renewal" clauses and to clarify definitions of those terms. Opposition to AB 834 is consistent with existing Board policy to: 1) support proposals to streamline or eliminate administrative mandates to focus limited resources on services; 2) streamline and improve administrative operations and processes (e.g., contracting, procurement, and capital projects/space management) to increase effectiveness, enhance customer service, and support responsive County operations. **Therefore, the Sacramento advocates will oppose AB 834 unless amended, as indicated above, and will work with the author's office to secure the necessary revisions to address the County's concerns.**

AB 834 is supported by Orange County Employees Association and Professional Engineers in California Government. The measure is opposed by numerous businesses and associations, including Los Angeles County Waste Management Association, California Refuse Recycling Council, California Waste Recovery Systems, Contra Costa Waste Service, Northern Recycling & Waste Services, LLC and others.

The measure passed the Assembly Local Government Committee by a vote of 6 to 0 on April 27, 2011. The measure now proceeds to the Assembly.

SB 184 (Leno), which as introduced on February 7, 2011, would authorize the legislative body of any city or county to adopt ordinances to establish, as a condition of development, inclusionary housing requirements, as specified, and declare legislative intent in superseding the court ruling in *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009), to the extent that the opinion in the case conflicts with the bill.

Existing law authorizes the legislative body of any city or county to adopt ordinances regulating zoning within its jurisdiction. All localities are required to adopt a General Plan which must have a Housing Element that must be certified by the State Department of Housing and Community Development (HCD). The Housing Element, which is a five-year plan that makes adequate provision for the housing needs of "all segments of the community" and identifies potential housing sites "for all income levels," is the only General Plan element that requires State approval.

However, while incentives exist to have Housing Elements certified by the State, such as accessibility to State funds or avoidance of litigation, a certified element does not guarantee that affordable housing will be built. In the absence of a clear State mandate, inclusionary housing programs in California are adopted locally and subject to changing State and local political and economic circumstances, but the 2009 court decision, cited above, held that the Costa-Hawkins Rental Housing Act, which indicates that all residential landlords may, except in specified situations, "establish the initial rental rate for a dwelling or unit," preempts some local inclusionary housing requirements. SB 184 would clarify that cities and counties are authorized to establish inclusionary housing requirements as a condition of development.

The Department of Regional Planning (DRP) indicates that the Board of Supervisors directed the department to initiate the required feasibility study for an inclusionary housing program in 2008, but the court decision, mentioned above, eliminated the potential policy options that the County has in considering an inclusionary housing program for the unincorporated areas, in particular, the provision of affordable housing set-asides for rental housing. The submission of an inclusionary housing program feasibility study to the Board of Supervisors was delayed as a result of the court decision. DRP indicates that SB 184 would clarify that the Costa-Hawkins Rental Housing Act does not apply to local inclusionary requirements, and therefore, provide the County the needed flexibility to address affordable housing needs.

In addition, DRP indicates that the SB 184 levels of affordability for the inclusionary housing requirements would require the provision of residential units affordable to lower income, very low income, or extremely low income households. DRP believes the bill could be improved by adding the "moderate income" category to make it consistent with related State funding and regulatory programs, such as the State Density Bonus law and the Mello Act.

The Department of Regional Planning and this office support SB 184. Support is consistent with existing Board policy to support proposals that provide incentives to local government and/or developers to increase and protect affordable housing and flexibility for local governments to promote a diversity of affordable housing types

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through local policies. Support is also consistent with Board direction for DRP to initiate the required feasibility study for an inclusionary housing program. **Therefore, the Sacramento advocates will support SB 184, and request that it be amended to also include the moderate income category.**

Support and opposition to SB 184 is unknown. This measure is set for a hearing in the Senate Transportation and Housing Committee on May 3, 2011.

Status of County-Advocacy Legislation

County-supported AB 298 (Brownley), which would prohibit a manufacturer or distributor from selling or distributing a reusable bag in California, if the bag is designed or intended to be sold or distributed to a store's customers, unless: 1) the guidelines for cleaning and disinfecting the reusable bag are printed on the bag, or on a tag attached to the bag; and 2) the reusable bag meets specified criteria, including it does not contain lead, cadmium or other heavy metal in toxic amounts, passed the Assembly Floor by a vote of 49 to 25 on April 28, 2011. This measure now proceeds to the Senate.

County-supported-if-amended AB 438 (Williams), which as amended on April 4, 2011, would require a city or the board of trustees of a library district that intends to operate the library or libraries with the help of a private contractor that will employ library staff to: 1) publish notice of the intent to withdraw from the county free library system; 2) submit the decision to withdraw for voter approval at a regularly scheduled election; and 3) notify the county board of supervisors of approval by the voters to withdraw from the county free library system. This measure is set for a hearing in the Assembly Appropriations Committee on May 4, 2011.

We will continue to keep you advised.

WTF:RA:MR
OR:IGEA:lm

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants